

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 95-113

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

Several parts of the rule exclude, from the scope of the rule, individual private practitioners who deliver services in offices that are not part of programs. For example, see ss. HSS 94.01 (2) (b), 94.02 (18) and 94.40 (1). However, under s. 51.61 (5) (b), Stats., the grievance procedure is required to protect the rights of “patients” as defined in ch. 51, Stats. The only patients excluded from the grievance procedure by statute are those who reside at Mendota and Winnebago Mental Health Institutes and state centers for the developmentally disabled, as well as certain emergency patients. Patients treated by individual private practitioners appear to be covered by the statute. The department should consider whether the rule should be revised accordingly.

2. Form, Style and Placement in Administrative Code

a. In s. HSS 94.02 (14), it appears that the second occurrence of the word “a” should be deleted.

b. In the definition of “program director” in s. HSS 94.02 (36), delete the word “director” and insert the word “person.”

c. Section HSS 94.09 (6) (d) does not grammatically follow from the introduction in renumbered s. HSS 94.09 (6) (intro.).

d. Section HSS 94.10, as repealed and recreated, should contain a title.

e. In s. HSS 94.42 (4) (b), the number “1” should be inserted before the first subdivision.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. HSS 94.41 (1) (e) and (f), insert a cross-reference to the informal process in s. HSS 94.40 (4), and to the formal process in s. HSS 94.40 (5).

b. In s. HSS 94.41 (3) (b), insert a cross-reference to s. HSS 94.41 (2) (c) when referring to the “inquiry.”

c. The reference in s. HSS 94.41 (6) to s. HSS 94.43 (1) (d) should be corrected because this paragraph does not exist.

d. The reference in s. HSS 94.43 (2) to s. HSS 94.42 should be changed to s. HSS 94.42 (1) (b).

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The reference in s. HSS 94.02 (21) to “informal dispute resolution” might be renamed “informal concern resolution.” The word “concern” is a broader, more accurate term, defined under s. HSS 94.02 (6), which encompasses disputes.

b. In s. HSS 94.02 (45), final sentence, if the enumeration of the three specific types of facilities is not meant to be all-inclusive, delete the word “may” and insert the word “includes.”

c. In s. HSS 94.05 (3) (a), the word “decisionmaker” should be clarified. In addition, this paragraph should clarify that the patient should also be informed of the availability of an informal dispute resolution provision.

d. The title to s. HSS 94.07 should be “LEAST RESTRICTIVE TREATMENT AND CONDITIONS,” since both are included in sub. (1).

e. In s. HSS 93.40 (3) (a), a comma should be inserted following the second occurrence of the word “programs.”

f. In s. HSS 94.40 (4) (b), the term “informal dispute resolution” should be used. Similarly, in pars. (c) and (d), instead of using the term “informal process,” the term “informal dispute resolution process” should be used.

g. It would be helpful to clarify in s. HSS 94.41 that the reference to “program level review” is the “formal grievance process.”

h. In s. HSS 94.41 (3) (d), the word “do” should be deleted.

i. In s. HSS 94.41 (4) (b), why is reference not made to the parent or guardian of a client? [See, for example, sub. (4) (a) and (e).]

j. Section HSS 94.46 authorizes a replacement timetable to be developed when multiple grievances are to be dealt with. Perhaps maximum guidelines should be inserted for this replacement timetable.